

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOEZIEL J. VAZQUEZ,

Petitioner,

v.

COMMONWEALTH OF
PENNSYLVANIA, CITY OF
PHILADELPHIA, WARDEN MAY OF
C.F.C.F., and SETH WILLIAMS,

Respondents.

:
:
:
:
:
:
:
:
:
:
:
:

CIVIL ACTION NO. 16-3026

ORDER

AND NOW, this 2nd day of March, 2018, the court having previously approved and adopted United States Magistrate Judge Richard A. Lloret's report and recommendation (Doc. No. 31); and the court having subsequently (1) granted in part the petitioner's motion for reconsideration based on his contention that he did not receive a copy of the respondents' response to his habeas petition or Judge Lloret's report and recommendation, (2) vacating the court's order approving and adopting Judge Lloret's report and recommendation, and (3) permitting the petitioner to file objections to the report and recommendation by no later than February 22, 2018 (Doc. No. 38); and the court having received no response from the petitioner despite the passage of seven days beyond February 22, 2018; and

THE COURT HAVING considered the petition for writ of habeas corpus (Doc. No. 1), the amended/supplemental petition for writ of habeas corpus (Doc. No. 16), the petitioner's submission of evidence to be considered with his petition (Doc. No. 22), the respondents' response in opposition to the habeas petition (Doc. No. 26), the state-court record, and Judge

Lloret's report and recommendation (Doc. No. 29); accordingly, it is hereby **ORDERED** as follows:

1. The Honorable Richard A. Lloret's report and recommendation (Doc. No. 29) is **APPROVED** and **ADOPTED**;¹

2. The petitioner's petition for writ of habeas corpus (Doc. No. 1) is **DENIED WITHOUT PREJUDICE** without a hearing; and

3. The petitioner has not made a substantial showing of the denial of a constitutional right and is therefore not entitled to a certificate of appealability, 28 U.S.C. § 2253(c)(2).

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.

¹ Since neither party filed objections to Judge Lloret's report and recommendation, the court need not review the report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Nonetheless, "the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report." *Id.* As such, the court will review the report for plain error. *See Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) ("In the absence of a timely objection, . . . this Court will review [the magistrate judge's] Report and Recommendation for clear error." (internal quotation marks omitted)). The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). The court has reviewed Judge Lloret's report for plain error and has found none.